

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
J.C. MCCRARY,

Plaintiff,

-against-

THE COUNTY OF NASSAU,

Defendant.

-----X
J.C. MCCRARY,

Plaintiff,

-against-

**REPORT AND
RECOMMENDATION**
CV 06-3048 (SJF)(ARL)

COUNTY OF NASSAU, KATHLEEN RICE,
District Attorney, in her official capacity;
GREGORY HECHT, Associate Court of the Clerk
of the District Court of Nassau County, in his
individual capacity,

Defendants.

-----X
LINDSAY, Magistrate Judge:

Before the court, on referral from Judge Feuerstein, is the plaintiff's motion for sanctions.

The plaintiff seeks to impose sanctions upon the County "for deliberately misleading the Court regarding when Judge Calabrese rendered his 'decision' on Plaintiff's Mapp hearing." For the following reasons, the undersigned recommends that the motion be denied:

1. Although captioned as motion for sanctions, the motion addresses the same argument raised by McCrary in his supplemental objections to the undersigned's report and recommendation, which is currently pending before the District Judge;
2. The date of the Mapp hearing cited to by the court in the report and recommendation

was obtained from McCrary's deposition testimony;

3. The court's reference to the Mapp hearing was for background purposes only and was not material to its findings; and
4. The County has confirmed that it is not in possession of a copy of Judge Calabrese's Mapp decision.

OBJECTIONS

A copy of this Report and Recommendation is being served by the Court on all parties.

Any objections to this Report and Recommendation must be electronically filed with the Clerk of the Court within 10 days of service. Failure to file objections within this period waives the right to appeal the District Court's Order. *See* 28 U.S.C. §636 (b) (1); Fed. R. Civ. P. 72; *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York
September 22, 2008

/s/
Arlene R. Lindsay
United States Magistrate Judge